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10/549,509	10/21/2005	Kumar Venkateswara Vedantam	102790-197 (30086 US)	1348
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NORRIS, MCLAUGHLIN & MARCUS			EXAMINER	
875 THIRD AVE			ASD/ODL, MOHAMMAD REZA	
18TH FLOOR				
NEW YORK, NY 10022			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/549,509

Applicant(s)

VEDANTAM ET AL.

Examiner

MOHAMMAD R. ASDJODI

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

***A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.***

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by King (US 5,041,421).

Regarding claim 21, King teaches a method of preparing free flowing fragrant material (6: 55-64, 8: 14), comprising: mixing a particulate carrier and water soluble salts such as NaCl prior to addition of fragrance and finally adding the fragrance to particulate carrier material and water soluble salt of alkali metal; [6: 55-64, 3: 20-25, 3: 15].

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-4, 6-7, and 9-20 are rejected under 35 U.S.C. 103(a) as being obvious over Bares et al. (GB 2 066 839 A), in view of Forgaci (WO 03/020867).

Regarding claim 1, Bares et al. teach a method of preparing a free flowing (powdered) fragrance-providing composition comprising; the addition of fragrance to a particulate carrier; [Pg.2, L.110-115 & Pg.3, L.80-87], and water soluble salt of an alkaline metal such as sodium silicate in the final composition; [Pg.3, L.17].

Bares et al. do not , specifically, teach presence of another water soluble alkali or alkaline earth metal salts during the addition of perfume to silicate (highly absorbent) carrier. However, Forgaci et al. teach a perfumed laundry detergent composition wherein the perfume is added to a silicate and alkali metal sates carrier; [Pg.3: 25, Pg.6: 20-25, Pg.7: 10-30, Pg.8: 1-3]. Forgaci et al. and Bares et al. are analogous art because they are from the same field of endeavour, that of fragrance delivery cleaning compositions. At the time of invention, it would have been obvious to a person of ordinary skill in the art to add the inorganic alkali metal salts of Forgaci to Bares et al.'s perfume carrier with the motivation of enhancing delivery of perfume (without any harm or adverse effect to Bares' composition) to intended product and articles in contact. Addition of inorganic alkali metal salts, (in varying amounts depending on desired rate of perfume delivery by porous silicate or water soluble inorganic salts), to perfume carriers in different products are common in the art as evidenced by Forgaci et al. .

Regarding claim 2, and 9, Bares et al. teach a preparation method wherein the ratio of particulate carrier to present water soluble salt in composition is 1.5:10; [Pg.3, L.15-25].

Regarding claims 3, 12-13, Bares et al. teach a solid (powder, particulate) fragrance delivery method, as set forth above regarding claim 1, wherein the ratio of water soluble salt to fragrance is 33.3:1; [Pg.3, L.15-25].

Bares et al. do not teach the ratio of water soluble salt to fragrance in the range of 1.5-20; [Pg.3, L.15-25]. The experimental modification of this prior art in order to ascertain optimum operating conditions fails to render applicants' claims patentable in the absence of unexpected results. *In re Aller*, 105 USPQ 233. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to optimize the amount of fragrance delivery by increasing the concentration of fragrance during the washing process. The motivation would have been to deodorize the substrates and textiles with more fragrance present in solution. A prima facie case of obviousness may be rebutted, however, where the results of the optimizing variable, which is known to be result-effective, are unexpectedly good. *In re Boesch and Slaney*, 205 USPQ 215 [MPEP 2441.05].

Regarding claims 4, 10, and 11, Bares et al. teach a fragrance providing method, as applied to claims 1 and 2, wherein the particulate carrier is fine porous silica; [Pg.2, L.65], and the ratio of particulate carrier to present water soluble salt is 0.15; [Pg.3, L.15-25].

Bares et al. do not teach the amount of porous silica being 50% of particulate carrier, which is the ratio of 1:1. The experimental modification of this prior art in order to ascertain optimum operating conditions fails to render applicants' claims patentable in the absence of unexpected results. *In re Aller*, 105 USPQ 233. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to optimize

the amount of particulate carrier by increasing the concentration of particulate carrier. The motivation would have been to increase the endurance of aroma long after washing and drying substrates and textiles. A prima facie case of obviousness may be rebutted, however, where the results of the optimizing variable, which is known to be result-effective, are unexpectedly good. *In re Boesch and Slaney*, 205 USPQ 215 [MPEP 2441.05].

Regarding claims 6, 7, and 18-19, Bares et al. teach a fragrance providing method wherein the ratio of particulate carrier to water soluble is 0.15, and the ratio of water soluble salt to fragrance is 33.3:1; [Pg.3, L.15-25].

Bares et al. do not teach the ratio of water soluble salt to fragrance in the range of 5:1- 20:1. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to optimize the amount of fragrance delivery by increasing the concentration of fragrance during the washing process. The motivation would have been to deodorize the substrates and textiles with more fragrance present in solution.

Regarding claims 14-17, Bares et al. teach a fragrance providing method wherein the ratio of particulate carrier to water soluble salt is 0.15 and ratio of water soluble salt to fragrance is 33.3; [Pg.3, L.15-25].

Bares et al. disclose the limitations of instant claims, but do not disclose the detailed, and varying, ratios of particulate carrier to water soluble salt, and water soluble salt to fragrance. It would have been obvious to one having ordinary skill in the art at the time the invention was made to change these ratios for the desired delivery of fragrance during the washing and after washing and drying, since it has been held that

the provision of adjustability, where needed, involves only routine skill in the art. In *re Stevens*, 101 USPQ 284 (CCPA 1954), MPEP 2144.04 [R-6] V-D.

Regarding claim 20, Bares et al. teach a fragrance providing method wherein the composition in different steps of washing textiles such as pre washing, and soaking; [Pg.3, L.113-120].

Claims 5 and 8, are rejected under 35 U.S.C. 103(a) as being obvious over Bares et al. (GB 2 066 839 A), in view of Forgaci (WO 03/020867).

Regarding claim 5, and 8, Bares et al. teach a fragrance providing method wherein the fragrant is deposited on a composition consisting essentially of particulate carrier and water soluble salt of an alkaline metal; [Pg.2, L.65 & Pg.3, L15-25], which is added during pre-wash, soaking , or washing process.

Bares et al. do not , specifically, teach presence of another water soluble alkali or alkaline earth metal salts during the addition of perfume to silicate (highly absorbent) carrier. However, Forgaci et al. teach a perfumed laundry detergent composition wherein the perfume is added to a silicate and alkali metal sates carrier; [Pg.3: 25, Pg.6: 20-25, Pg.7: 10-30, Pg.8: 1-3]. Forgaci et al. and Bares et al. are analogous art because they are from the same field of endeavour, that of fragrance delivery cleaning compositions. At the time of invention, it would have been obvious to a person of ordinary skill in the art to add the inorganic alkali metal salts of Forgaci to Bares et al.'s perfume carrier with the motivation of enhancing dispersion and delivery of perfume (without any harm or adverse effect to Bares's composition) to intended product and articles in contact. Addition of inorganic alkali metal salts, (in varying amounts

depending on desired rate of perfume delivery by porous silicate or water soluble inorganic salts), to perfume carriers in different products are common in the art as evidenced by Forgaci et al.

Bares et al. do not teach the at least 60% by weight of water soluble salt and 20% by weight of particulate carrier. The experimental modification of this prior art in order to ascertain optimum operating conditions fails to render applicants' claims patentable in the absence of unexpected results. *In re Aller*, 105 USPQ 233. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to optimize the amount of fragrance delivery during the wash by increasing the amount of water soluble salt. The motivation would have been to deodorize the substrates and textiles with more fragrance present in solution. A prima facie case of obviousness may be rebutted, however, where the results of the optimizing variable, which is known to be result-effective, are unexpectedly good. *In re Boesch and Slaney*, 205 USPQ 215, [MPEP 2441.05].

Response to Arguments

Applicant's arguments filed 12/18/08 have been fully considered but they are not persuasive. Because:

A- In response to applicant's argument that: "nowhere Forgaci et al. teach a perfumed laundry detergent, wherein the perfume is added to a silicate and alkali meta salt carrier": it should be noted that the teachings of Forgaci are clearly to the contrary. In part (i) of page 6 (line 22) Forgaci teaches the addition of an aqueous perfume to an inorganic granular carrier material, and later he continues on to explain a detailed

constituents of these inorganic materials such as sodium silicates (page 7: line 18, page 8: line 1-2) and sodium chloride (page 7: line 3) along with other water soluble inorganic sodium salts (same pages).

B- Regarding the presence of colorant in Forgaci's laundry detergent composition, the claims 1, and 5, are stated as a comprising claims therefore presence of a colorant will have no effect on reading of these claims, and at the same time is an additional feature which Forgaci's invention possesses. Addition of additive ingredients in the process are usually optional matter and known in the art, as is also, and vividly, indicated by King (US 5,041,421) in example 2.

C- In response to applicant's argument that: "teaching of Forgaci et al. is completely different that of Bares: it is noted that the title of both prior arts are directly related to perfumed laundry detergents. Also, even if one remotely could assume they are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

D- In response to applicant's argument that: "neither Bares nor Forgaci et al. teach a method of preparing a free flowing solid fragrance composition": it is noted that both references do indeed teach a free flowing perfumed detergent, indeed. Please see Forgaci at; [page 7, line 29], and Bares at ; [Examples 1-12]. Applicant's argument with respect to carriers are addressed above. To date, there has been no display of evidence to elucidate differences between the two inventions. It is noted that

arguments of counsel can not take the place of evidence in the record. *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); *In re Geisler*, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997).

E- Regarding the arguments on claim 21, please see office action above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. M. Reza Asdjodi whose telephone number is (571)270-3295. The examiner can normally be reached on Monday-Friday 8:00-5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Mark Eashoo can be reached on 571-272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/
Supervisory Patent Examiner, Art Unit 1796

M. Reza Asdjodi /
Examiner, Art Unit 1796
03/10/09